

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

KEVIN JOHNSON, BRAD SMITH, &	§	
TOMMY HIGGINS, individually and on	§	
behalf of similarly situated individuals	§	
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
HECKMANN WATER RESOURCES (CVR)	§	
INC. and COMPLETE VACUUM AND	§	CIVIL ACTION No. 9-11-CV-170
RENTAL LLP,	§	
	§	
<i>Defendants.</i>	§	JUDGE RON CLARK

ORDER DENYING WITHOUT PREJUDICE MOTION FOR ATTORNEY'S FEES

Before the court is Plaintiff Brad Smith's motion for attorney's fees. [Doc. # 46].

Pursuant to the court's order granting in part Smith's summary judgment [Doc. # 44] and the Final Judgment entered concurrently with that order [Doc. # 45], Plaintiff is entitled to reasonable attorney's fees expended in connection with his motion for partial summary judgment.

As a fee applicant, a Plaintiff has the burden of documenting the time spent and the services performed as well as the reasonableness of the hourly rate requested. *Hensley v. Eckhart*, 461 U.S. 424, 433-34, 103 S. Ct. 1933, 1939. This includes addressing who, whether it be an attorney, paralegal, or secretary, performed the work which forms the basis of Plaintiff's fee request. Unlike state court judges, it is quite clear that the court cannot rely on its own experience in determining the reasonable hourly rate of an attorney and the reasonable number of hours performed on a matter. See *League of United Latin Am. Citizens v. Roscoe I.S.D.*, 119

F.3d 1228, 1234 (5th Cir. 1997) “[T]he district court may not simply rely on its own experience in the relevant legal market to set a reasonable hourly billing rate.”(citations omitted).

Accordingly, Plaintiff’s motion for attorney’s fees [Doc. # 46] is DENIED WITHOUT PREJUDICE. Plaintiff may file a motion for attorney’s fees with sufficient documentation on or before August 23, 2013. Any response, if applicable, shall be filed in accordance with the time period set forth in Local Rule CV-7(e).

So **ORDERED** and **SIGNED** on August 9, 2013.



Ron Clark, United States District Judge